SENATE FINANCE COMMITTEE

May 17, 2021 9:09 a.m.

9:09:19 AM

CALL TO ORDER

Co-Chair Bishop called the Senate Finance Committee meeting to order at 9:09 a.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair Senator Bert Stedman, Co-Chair Senator Lyman Hoffman Senator Donny Olson Senator Natasha von Imhof Senator Bill Wielechowski Senator David Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Erin Shine, Staff, Senator Click Bishop; Representative Dan Ortiz, Sponsor; Christopher Clark, Staff, Senator Click Bishop.

PRESENT VIA TELECONFERENCE

Sam Rabung, Director, Commercial Fisheries, Juneau; Rob Carpenter, Deputy Commissioner, Department of Transportation and Public Facilities; Ben White, Program Development Director, Department of Transportation and Public Facilities; Dom Pannone, Administrative Services Director, Department of Transportation and Public Facilities.

SUMMARY

SB 50 APPROP: CAP; REAPPROP; SUPP; AMEND

SB 50 was HEARD and HELD in committee for further consideration.

CSHB 41(FIN)

SHELLFISH PROJECTS; HATCHERIES; FEES

CSHB 41(FIN) was HEARD and HELD in committee for further consideration.

HB 117 EXTEND BOARD OF DIRECT-ENTRY MIDWIVES

HB 117 was HEARD and HELD in committee for further consideration.

#hb41

CS FOR HOUSE BILL NO. 41(FIN)

"An Act relating to management of enhanced stocks of shellfish; authorizing certain nonprofit organizations to engage in shellfish enhancement projects; relating to application fees for salmon hatchery permits and shellfish enhancement project permits; relating to the marketing of aquatic farm products by the Alaska Seafood Marketing Institute; and providing for an effective date."

9:10:14 AM

Co-Chair Bishop relayed that it was the first hearing of HB 41, however the committee had already heard public testimony on, and passed, the companion legislation, SB 64.

Senator Hoffman MOVED to ADOPT proposed committee substitute for CSHB 41(FIN), Work Draft 32-LS0291\G (Bullard, 5/13/21).

9:11:04 AM AT EASE

9:11:30 AM

RECONVENED

Senator Hoffman MOVED to ADOPT proposed committee substitute for CSHB 41(FIN), Work Draft $32-LS0291\G$ (Bullard, 5/13/21).

Co-Chair Bishop OBJECTED for discussion.

9:12:05 AM

ERIN SHINE, STAFF, SENATOR CLICK BISHOP, spoke to the proposed Committee Substitute (CS). She spoke to the changes from version I to version G:

Deletes Sections 7-12 from Version I

Removes the promotion of aquatic farm products from the purview of the Alaska Seafood Marketing Institute.

Ms. Shine added that the bill also made technical and conforming changes pertaining to the effective date section. She added that version I had previously provided additional powers to the Alaska Seafood Marketing Institute (ASMI) board to market aquatic farm product, in addition to commercially harvested seafood from Alaska. She stated that ASMI's current seafood marketing activities were funded from the Seafood Marketing Assessment under AS 16.51.120, which was not collected from aquatic farms. She furthered that it was therefore appropriate for the aquatic farmers of fisheries such as kelp, crab, and oysters to first be a stable market and overtime be able to establish a selfassessment to contribute towards marking of their products via ASMI before the removed provisions of the previous bill version became law.

9:13:24 AM

Co-Chair Bishop asked whether the sponsor agreed with the proposed changes to the legislation.

9:13:37 AM

REPRESENTATIVE DAN ORTIZ, SPONSOR, commented that HB 41 had the ASMI provision as a part of the bill. He shared that ASMI was currently charged with marketing wild-caught Alaskan seafood and was currently prohibited from marketing aquatic farm products. He said that without a change in the statute, ASMI could not market farm products such as oysters and kelp. He noted that the bill included sunset language that limited how long ASMI could market aquatic products, which incentivized the industry, Department of Revenue, and ASMI to determine a feasible way for the industry to buy in to the marking. He thought it was a key point that the bill would allow for mariculture industry to seek grants and other non-state funds that could be used to cover marketing costs.

Representative Ortiz relayed that when he had spoken to a representative from ASMI and had been assured that ASMI had no intention of using money donated by people or groups to market traditional products. He stressed that the intent for ASMI was to gain access to federal resources that were specifically for the marketing of mariculture products.

9:16:51 AM

Senator Hoffman requested information about which parts of the state contributed to the ASMI budget. He did not believe the testifier had answered as to whether supported the CS.

Representative Ortiz asserted that he would like to see the passage of HB 41.

9:17:44 AM

Senator Olson commented on the multi-management of the industry. He aske whether the commercial crab industry would be solely managed by the Alaska Department of Fish and Game (DF&G).

Representative Ortiz was not sure he understood Senator Olson's question.

Senator Olson asked who would be managing the crab industry in the Bering Sea.

Representative Ortiz stated that he did not have an answer to the question.

9:19:03 AM

Senator Olson restated his question. He thought, looking at the current bill version, it appeared there had been consolidation of shellfish management in his district to DF&G.

SAM RABUNG, DIRECTOR, COMMERCIAL FISHERIES, JUNEAU (via teleconference), did not think that the bill referenced fisheries management. He relayed that the bill pertained to the permitting of the shellfish enhancement projects, which would be managed as shellfish were currently managed.

Senator Olson understood that there was no change in the management system within the crab industry.

Mr. Rabung said that was correct.

Senator Olson asked the sponsor whether enhancement of shellfish farming included crab.

Representative Ortiz replied in the affirmative.

9:20:43 AM

Senator Wielechowski asked whether the department had a preference between the proposed CS and the original version that came to the senate from the other body.

Mr. Rabung replied that the CS did not affect the work of DF&G. He revealed that he was a member of the governor's Mariculture Taskforce, and one of the goals had been to find a way to allow ASMI to market all seafood and not only commercially harvested seafood.

9:21:56 AM

Senator Olson asked the sponsor whether he had been in contact with any of the participants of the Community Development Quota (CDQ) program in the affected areas.

Representative Ortiz had not specifically been in contact with those groups. He noted that United Fishermen of Alaska, who represented those groups, were in support of the bill.

9:22:40 AM

Senator Wilson supported the legislation. He wondered whether there was additional language that could be added to allow for federal receipt authority or additional grants.

9:23:25 AM

Senator Hoffman thought there was a way to do what Senator Wilson suggested. He thought while the bill wanted to use ASMI as a marketing agent, the bill did not allow for collection of taxes from aquatic farms. He thought there might be a way to include a tax that would fund the ASMI marketing activity.

Co-Chair Bishop WITHDREW his objection. There being NO further OBJECTION, it was so ordered.

CSHB 41(FIN) was HEARD and HELD in committee for further consideration.

#hb117

HOUSE BILL NO. 117

"An Act extending the termination date of the Board of Certified Direct-Entry Midwives; and providing for an effective date."

9:24:22 AM

Co-Chair Bishop introduced the bill.

9:24:47 AM AT EASE

9:25:59 AM RECONVENED

Co-Chair Bishop noted it was the second hearing of HB 117. He discussed FN 1, from Department of Commerce, Community and Economic Development, OMB Component Number 2360. He cited the analysis on page 2 of the fiscal note:

117 extends statutory authorization for the existing Board of Certified Direct-Entry Midwives to June 30, 2023.

If the bill passes the following expenses will be incurred:

\$20.3 (5 board members and Travel: member, to attend four board meetings per year) Services: \$0.4 (advertising of public notice of board meetings)

\$1.0 (training and conference fees)

\$0.1 (stipends for board members attending board meeting in community of residence)

9:27:11 AM

Senator Olson understood that there had been some type of legal proceeding that occupied the board.

Representative Ortiz stated that the Division $\circ f$ Legislative Budget and Audit Recommendation for an extension of two years was due to issues of which the sponsor had not been privy.

Senator Olson contended that if the lawsuit was serious the extension recommendation should have been for one year.

Representative Ortiz reiterated that he was not aware of the issues had been raised and that the two-year extension, which was a shorter extension than usual, had been recommended by the Division of Legislative Budget and Audit.

Senator Olson expressed concern with the legal matters connected to the board.

9:28:57 AM AT EASE

9:31:19 AM RECONVENED

Co-Chair Bishop stated he would set HB 117 aside until the afternoon meeting, at which time the legislative auditor would be available to testify.

Senator Olson commented that he was fine with a two-year extension.

Co-Chair Bishop affirmed the committee would set the bill aside until the afternoon meeting.

117 was HEARD and HELD in committee for further consideration.

9:32:19 AM AT EASE

9:36:36 AM RECONVENED

#sb50 SENATE BILL NO. 50

Act making appropriations, including capital appropriations, reappropriations, and appropriations; making supplemental appropriations; making appropriations to capitalize funds; providing for an effective date."

9:36:41 AM

Co-Chair Bishop stated that the committee's intent was to hear the bill for the purpose of discussion. He related the bill version before the committee largely reflected what had been previously introduced by the governor. He said that all fund other than UGF had been removed for clarity.

CHRISTOPHER CLARK, STAFF, SENATOR CLICK BISHOP, spoke to a proposed CS to SB 50. He relayed that all documents pertaining to the document were posted on BASIS under the legislation. He referenced an overview agency summary document labeled "A2" "2021 Legislature - Capital Budget Agency Summary - Governor Structure" (copy on file). He noted that the column, "22GovAmdT" showed all amendments received form the governor to date. He said that the CS represented the governor's request from December 2020 through the amendment deadline of February 16, 2021. He shared that the column took out those funds that were non-UGF under the governor's proposal, but the committee considered UGF, namely - bond receipts from AHFC and PCE, which were now being funded with UGF. He pointed to the total on the spreadsheet of \$169.4 million, which did not include \$7 million from HB 71, which would bring the total \$176.6 million and had been reflected in presentations form Legislative Finance Division.

9:40:24 AM

Co-Chair Stedman understood that document A2 was still under discussion.

Mr. Clark affirmed that he was still referencing document A2.

Co-Chair Stedman asked for further clarity as to which columns were being discussed.

Mr. Clark directed attention to the column "22GovAmdT" and pointed to the "Funding Summary" line, which showed \$128.2 million in UGF and represented what the governor had submitted in his budget and budget amendments since December 2020. He stated that column 2, which showed UGF of \$169.4 million, which was part of a total of \$176.6 million in capital projects. He noted that the federal receipts were \$1.7 billion, up from \$1.2 billion, which would be discussed later. He said that the numbers reflected what had been done with transportation projects in the bill.

9:42:25 AM

Mr. Clark directed attention to Section 1 of the proposed CS. He asked members to go to the bottom of page 7 of the bill. He spoke to the appropriations for the Department of Transportation and Public Facilities. He shared that in previous years, appropriations for airport improvements and surface transportation had been lump sums. He explained that the current bill reflected what had been done before when appropriations had been broken down allocations. He stated that the reasoning for breaking down the numbers were to provide detail for each project. He said that there was a difference between what was done before 2017 and what the billed showed in that how the size of the allocations to accommodate for things such as unexpected cost due to work orders or other unexpected project delays.

Mr. Clark directed attention to page 24, lines 23 and 24, which showed allocations for "Contingency" (\$100 million) and "Project Acceleration" (\$150 million). He shared that the funds were intended to accommodate additional authority within each project or to allow projects to be accelerated should the originally allocated project be put on hold. He said that the agency had proposed creation of the contingency and acceleration funds.

9:45:35 AM

Co-Chair Bishop added that individual lawmakers would have the ability to identify individual projects, per legislative district, in the bill.

9:46:02 AM

Co-Chair Stedman observed that the proposed funds comprised 25 percent of the overall appropriation. He wondered whether the funds were only available for listed projects, or if there was flexibility when spending the funds.

9:46:51 AM

ROB CARPENTER, DEPUTY COMMISSIONER, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (via teleconference), explained that the two allocations would provide federal receipt authority to aid with cost overruns and reallocating funding to other STIP projects in place of delayed projects.

9:48:06 AM

Senator Wielechowski was curious if any such language had been included in previous capital budgets. He was concerned that if contractors knew that there was \$100 million set aside for cost overruns, that there would be less incentive to stay on budget.

Mr. Carpenter stated that in prior years there had been allocations in the bill that had caused the department to over-program the appropriation to create room for slippage and cost overruns. He said that the intent of the allocations listed was to plan for the issues in advance. He appreciated Senator Wielechowski's concern but felt that in the competitive environment for projects would result in the best bids possible.

9:49:43 AM

Co-Chair Stedman recalled that over previous years, there had been many federal projects in the STIP that had resulted in anticipation and excitement in communities, only to be shelved and never completed. He referenced a road in his district that had been in the STIP for 20 STIP vears. Не thought the was over-programed. referenced the importance of not misleading communities. He stressed the importance of more transparency in the STIP process and held that the concept of the two funds was to provide more transparency in STIP projects.

9:51:33 AM

Co-Chair Bishop referenced Senator Wielechowski's question and thought the line items offered a truer accounting of STIP projects and where money was ultimately allocated.

9:52:15 AM

Mr. Carpenter agreed.

9:52:22 AM

Senator Wielechowski queried the sort of provisions in RFP's the prevented contractors from bidding low and then seeking more funding through change orders.

9:52:49 AM

BEN WHITE, PROGRAM DEVELOPMENT DIRECTOR, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (via teleconference), explained that the department followed the standard contracting process for the state and followed the Federal Highways Administration contracting and procurement processes. He said that there were provisions in place that addressed the issue. He agreed to provide the information.

9:53:40 AM

Senator Wielechowski asked how often bids went over projected cost.

Mr. White replied that much of the costs were dependent on the cost of materials. He mentioned the volatility in the price of steel, and the mobilization and demobilization of equipment. He discussed cost variables in different regions of the state and different activity costs such as marine pile driving.

9:54:45 AM

Co-Chair Stedman asked whether there would be management fees for the proposed \$250,000,000.

Mr. Carpenter did not think there would be fees involved; the money was federal receipt authority that could be reallocated to a project under the Contingency and Project Acceleration provisions.

9:56:18 AM

Co-Chair Stedman understood that the Indirect Cost Allocation Program (ICAP) charge wound not be applied until the money was allocated to a project. He asked how long the funds could be carried forward before there was a potential risk of loss to the state.

Mr. Carpenter stated that the funds would be part of the capital budget appropriation. He thought there was a five-year window in which to charge or move funds according to the allocations, at which time the funds would lapse for the life of the project. He said that the intent was to get the projects started within the next federal fiscal year, starting the state fiscal year YF 22, which was two federal fiscal years. The funds could be used over many years just as the capital allocations for other projects would be used.

9:58:22 AM

Co-Chair Stedman commented on the technical nature of the new line items. He asked what DOT could do to help the committee track the individual years and amounts of the proposed funds and how the funds were spent. He asked whether the department would be reporting to the legislature on an annual basis or other.

Mr. Carpenter appreciated the question. He suggested that intent language could be added that indicated the department should report to the legislature each time the Contingency money was used and when a project was moved forward under Project Acceleration. He reminded that the agency reported quarterly on obligations and could report every time there was use of the allocations.

10:00:00 AM

Co-Chair Bishop understood that there was no "double-dipping" on the indirect rate through the Contingency or Project Acceleration allocations to a project for management fees for a project.

Mr. Carpenter answered in the affirmative.

10:00:31 AM

Senator von Imhof asked what would happen to the funds if there were no cost overruns or contingency needs.

Mr. Carpenter explained that the funds were not actual cash but was expenditure authority that allowed the department to use federal revenue in a different manner.

Senator von Imhof referenced page 16 of the bill, which listed three large projects. She assumed if one of those projects did not move forward, the contingency money would be triggered.

Mr. Carpenter answered in the affirmative. He added that there was a limit of what could be moved forward and what could incur cost overruns. The department had calculated cost overrun trends for the past and slippage. He agreed to provide the details.

10:02:31 AM

Mr. White stated the department had considered how to move projects forward. He said that if a larger project slipped out, the department needed the ability to move projects forward and fill the federal gap. The department wanted to ensure that it obligated each federal dollar.

10:03:20 AM

Senator von Imhof asked whether the committee could see what projects were in the queue. She referenced the STIP report and what potential projects would be chosen to fill any gap.

10:03:54 AM

Senator Wielechowski asked whether the contingency funds could be used for construction contracts as well as consultancy contracts.

Mr. Carpenter answered in the affirmative.

Senator Wielechowski wanted to better understand how the funds might be used. He requested more detail, in writing, about the potential ways the funds could be used.

Mr. Carpenter stated that the department would provide backup to the project appropriation that would give further details.

Senator Wielechowski wondered whether he could see some detail before moving forward on voting on the proposed CS.

Mr. Carpenter stated that he could provide the information.

10:05:49 AM

Co-Chair Stedman asked for clarification as to whether the Contingency and Project Acceleration funds would be used only for projects from the STIP.

Mr. Carpenter replied affirmatively that the funds would be used for STIP projects only.

Co-Chair Stedman clarified that the money could not be used for a project outside of the STIP.

Mr. Carpenter agreed.

Co-Chair Stedman thought there needed to be a tracking mechanism to provide more clarity on DOT project spending.

10:07:35 AM

Co-Chair Bishop believed that the proposed CS would provide greater clarity than what had been available in the past.

10:07:44 AM

Senator Wielechowski asked whether the Contingency and Project Acceleration funds were required to go through an RFP or procurement process before issuance.

Mr. Carpenter reiterated that the funds were federal receipt authority that the department could reallocate to projects. He stated that RFP and bidding process would follow standard Federal Highway rules.

Co-Chair Bishop considered that all the overruns would need to be vetted before meeting Federal Highway requirements.

Mr. Carpenter affirmed that the department was bound by the strict rules of the FHA on how DOT funds were spent.

Co-Chair Bishop asserted that DOT would have to demonstrate that all rules had been followed before the money could be used for cost overruns.

Mr. Carpenter answered in the affirmative.

10:09:15 AM

Senator Wielechowski recalled that Mr. Carpenter had agreed that the funds could be used for consultants. He asked whether an RFP process would need to be followed to procure a consultant.

Mr. Carpenter stated that any consultants that would be hired would be strictly tied to the projects guided in the STIP. He assured the committee that department would not randomly hire consultants using contingency funds. All expenditures would be guided by the STIP, the public planning process, and federal rules.

10:10:35 AM

Co-Chair Stedman reminded that all the federal funds would be accompanied by state matching funds. He asked Mr. Carpenter to explain how the match process would work. He pondered where the \$250 million would go if the line items did not pass muster.

Mr. Carpenter discussed the match process, which included a separate appropriation for federal components. There was a roughly ten percent match on the federal highway, which would require a state match.

Co-Chair Stedman reiterated his question about the distribution of the \$250 million without the Contingency and Project Acceleration funds.

Mr. Carpenter said that in recent years the appropriation would have been leaner because it would have been a lump sum. He reminded that the projects were controlled by the STIP. In the past the bill would have to be overprogrammed by nearly double to account for expected overruns. He said that the intent with the new line items was to keep the bill lean, while allowing for flexibility in terms of cost overrun and slippage.

10:14:23 AM

Senator Olson considered the \$250,000,000 proposed for the two funds and wondered why the state didn't use the funds

for deferred maintenance and capital projects that were on the list.

Mr. Carpenter reminded that the funding was not actual cash, but rather expenditure authority for DOT to be able to charge to the allocations with legal authority. He stressed that the DOT was still capped at approximately \$600 million from the Federal Highway Administration.

Senator Olson thought the proposal could be a slanted way to make expenditures.

Mr. Carpenter noted that the department would not be hiring consultants outside the procurement process. He reiterated that every expenditure had to be itemized in the STIP and the procurement process was followed to the letter of the law.

10:16:59 AM

Senator Olson assumed that the funds would only be used for roads, since the STIP was referenced, rather than ferries or airports.

Mr. Carpenter noted that there were two appropriations - one for surface and another for airports.

10:17:49 AM

Senator Wielechowski was trying to understand how the federal government would allow the additional receipt authority. He understood that DOT received authorization for projects and wondered how the process would work.

Mr. Carpenter deferred to Dom Pannone.

10:18:56 AM

DOM PANNONE, ADMINISTRATIVE SERVICES DIRECTOR, DEPARTMENT TRANSPORTATION AND PUBLIC FACILITIES (via teleconference), explained that if DOT had a federal project for \$10 million and an allocation in the Capital Budget for \$10 million which experienced a cost overrun, the department would tap into the Contingency allocation. He said that this would keep the department from reducing allocations to other projects and to continue with the project without having to seek legislative approval.

10:20:17 AM

Co-Chair Stedman wanted to take a high-level view of the proposed Contingency fund and Project Acceleration fund. He said that the bill contained \$750 million in projects, with \$250 million in the new funds. He asked how much the federal government would send to the state. He asked for more refinement on the total expected federal dollars.

Mr. Carpenter deferred to Mr. White.

Mr. White stated that for each DOT project, there was a project agreement with the FHA based on the planning estimate. The department would be working closely with the FHA and would make additional funding requests to the FHA. The project could not be advanced with the additional funding until the cost increase was approved by the FHA. He shared that currently, if a project had a cost increase, they had to find a way to deduct from another project or allocation, which made for constant funding management.

10:22:55 AM

Co-Chair Stedman took note of the \$750 million for federal receipt authority. He asked how much the federal government would be sending to the state.

Mr. White cited that for the current fiscal year, \$586 million had been allocated in federal limitation, which did not include other funding sources that became available during the year. He said that the base allocation for 2021 was \$586 million.

Co-Chair Stedman pondered that the department had received \$600 million, the bill listed \$750 million in receipt authority, which provided and additional \$150 million. He furthered that the Contingency and Project Acceleration added and additional \$250 million. He concluded that in all culminated in the department receiving the \$600 million in federal authority.

Mr. White answered in the affirmative. 10:24:57 AM

Senator Wielechowski asked whether the department was expecting 33 percent cost overruns on STIP projects.

Mr. White stated that the intent was to make use of more federal funding as it became available. He said that the last two years the department had obligated more federal funding than what had been originally allocated because of earmarks or other available federal funding than had not been part of the base allocation from the FHA.

Senator Wielechowski thought the Contingency fund was for cost overruns and not allocation of possible additional federal funding.

Mr. White stated that the Contingency was for cost overruns, and the Project Acceleration fund was for additional federal funding.

10:26:51 AM

Co-Chair Bishop pondered that in if the federal government had money that had not been spent by other states the department would be in place to benefit from those additional dollars.

Mr. White agreed. He said that during the August redistribution at the end of the federal fiscal year, FHA would make any unallocated funds available, which would be the Project Acceleration funding the department would seek out.

Co-Chair Bishop asked whether Alaska was one of the better states in the country at being prepared to have projects ready for additionally available funding.

Mr. White affirmed that the state had done a good job at being prepared for any additional funding.

10:28:49 AM

Mr. Clark directed attention to page 24, line 26, which was an allocation for the Denali Commission for \$15 million. He said that the administration believed that the allocation would help to build roads in rural Alaska.

10:29:19 AM

Mr. Clark pointed out that Section 2, which set out the funding by agency for the appropriations made in Section 1.

He furthered that Section 3 set out the statewide funding for the appropriations made in Section 1. He addressed Section 4 starting on page 30, which was the language section of the bill. He pointed out to the committee that the first item related to a revised program for legislative RPLs. He noted that the language was the same as the Senate version of the operating budget bill that had been previously released. The language put some constraint on the governor's ability to use RPLs for funding government and to retain the legislative power of appropriation.

Mr. Clark highlighted a few items in the language section. He spoke to legislative reappropriations the first of which was on Page 32, under the Department of Health and Social Services. He said that the bulk of the reappropriations could be found on Page 39, line8, staring with House Districts 12 and 28, these were reappropriations requested by individual legislators. He noted that then end of the bill contained lapse dates for projects and effective dates for the sections of the bill.

10:32:21 AM AT EASE

10:35:02 AM RECONVENED

Co-Chair Stedman MOVED to ADOPT proposed committee substitute for SB 50, Work Draft 32-GS1507\N (Dunmire, 5/16/21). There being NO OBJECTION, it was so ordered.

SB 50 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT
10:35:43 AM

The meeting was adjourned at 10:35 a.m.